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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,548	02/12/2002	Anthony J. Monteiro	CIS01-29(4757)	6615

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04/11/2005

David E. Huang, Esq.
CHAPIN & HUANG, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

EXAMINER

REILLY, SEAN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/074,548	Applicant(s) MONTEIRO, ANTHONY J.	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This office action is a first action on the merits of this application. Claims 1-20 are presented for further examination.

Priority

1. The effective filing date for the subject matter defined in the pending claims in this application is 2/12/2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 8, 9, 14, 15, 17, 18, and 20, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 3, 8, 9, and 14 each recite the limitation "providing a second domain name service request to *the domain name service server*." There is insufficient antecedent basis for this limitation in the claims.
4. Claims 15, 17, 18, and 20 each recite the limitation "the data communications identifier." There is insufficient antecedent basis for this limitation in the claims. The limitations is interpreted as "a data communications identifier."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 8, 9, 14, 15, 17, 18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ebrahim (U.S. Patent Number 6,154,777).

6. Regarding claims 1, 3, 8, 9, and 14, Ebrahim discloses a content distribution system, comprising:

- a domain name service server which is configured to provide domain name service responses in response to domain name service requests (see Figure 4, Component 180 or 200); and
- a data communications device which is capable of interconnecting between a client and the domain name service server (Client side process or a physical proxy server, see Figure 4 and Col 7, lines 62-64), wherein the data communications device includes:
 - i. an interface which is capable of communicating with the client (needed for communication with the client process or proxy), and a controller coupled to the interface, wherein the controller is configured to:
 - 1. intercept a first domain name service request from the client (application process call, Col 3 lines 37-42),

2. provide a second domain name service request (Client side process or physical proxy server request to the DNS server) to the domain name service server through the interface in response to interception of the first domain name service request, the second domain name service request selectively (i) including a client identifier (caller's IP address or point of origin, Col 4, lines 14-21) which identifies the client, and (ii) not including the client identifier which identifies the client, based on a selection decision (selection of relevant caller context information) (Col 4, lines 7-31), and
 3. convey a domain service response from the domain name service server to the client through the interface, the domain name service response including a content server identifier which identifies a content server (destination host IP address returned to the client, Col 4, lines 61-67).
7. Regarding claims 15, 17, 18, and 20, Ebrahim discloses a domain name service server, comprising:
- an interface (Figure 4, within DNS server 200) which is capable of communicating with a data communications device (Clients Figure 4); and
 - a controller coupled to the interface (Figure 4, DNS server 200), wherein the controller is configured to :
 - receive a domain name service request from the data communications device through the interface (Col 4, lines 61-67), the domain name service request including a data

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communications device identifier which identifies the data communications device (included in the DNS message header – Identifier field),

- select a content server identifier from a predetermined group of content server identifiers based on (i) a client identifier which identifies a client (e.g. client IP or point of origin, Col 4, lines 15-21) when the domain name service request further includes the client identifier, and (ii) the data communications identifier (requested domain name) when the domain name service request does not include the client identifier (Col 4, lines 22-31), and
- provide a domain name service response to the data communications device through the interface, the domain name service response having the selected content server identifier which identifies a content server (destination host IP address returned to the client, Col 4, lines 61-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 4-7, 10-13, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebrahim (U.S. Patent Number 6,154,777) and Shaikh et al. (IBM Research Report On the Effectiveness of DNS-based Server Selection; hereinafter Shaikh).

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9. Regarding claims 2, 4, and 10, Ebrahim discloses processing circuitry that selectively (i) includes the client identifier in the second domain name service request, and (ii) does not include the client identifier in the of the second domain name service request, based on the selection decision, in order to provide the second domain name service request (as cited in claim 1) however, *Ebrahim does not specifically recite that the client identifier is include in the domain name field of the second request.* Nevertheless Ebrahim does specifically recite that the caller context structure passed “must be well specified and their formats standardized so that many different name resolvers can interoperate properly” (Ebrahim Col 4, lines 15-21). Thus, one of ordinary skill in the art at the time of the invention would have been motivated to seek out analogous art which specifies a format for passing client ID’s within a DNS request, such as the analogous art of Shaikh. In the DNS server system disclosed by Shaikh a requesting client ID (client address) is embedded within the domain name field (DNS question section) of the DNS request (Shaikh pg 10, Section 5 – DNS Protocol Modifications). It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the protocol defined by Shaikh within Ebrahim’s system since Shaikh protocol is well defined and therefore meets the requirements set forth by Ebrahim (Ebrahim Col 4, lines 15-21).

10. Regarding claims 5 and 11, the included client ID is itself a flag that a client ID is present.

11. Regarding claims 6-7 and 12-13, although Ebrahim and Shaikh fail to specifically recite the selection decision is based on a requested domain name being contained on a list of domain names stored in memory, Shaikh does raise the issue of domain name server backward compatibility (i.e. whether a domain name server will be capable of interpreting an embedded client ID) (Shaikh Section 5 – DNS Protocol Modifications). Further, it was widely known in

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the art at the time of the invention that DNS requests are routed to particular DNS servers based on the requested domain name, by comparing the requested domain name against a list of domain names stored in memory at the client or a proxy (Applicant's attention is drawn to the DNS RFCs of 1987 cited). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined Ebrahim and Shaikh system to selectively embedded DNS requests with a client ID when the DNS server receiving the DNS request will be able to properly interpret the request, thereby ensuring backward compatibility as discussed by Shaikh.

12. Regarding claims 16 and 19, Ebrahim discloses processing circuitry which is configured to determine whether the domain name request includes the client identifier such that (i) selection of the content server identifier is based on the client identifier when the DNS service request includes the client ID, and (ii) selection of the content server identifier is based on the data communications identifier when the DNS service request does not include the flag, as addressed in independent claims 15 and 18 above. However, Ebrahim does not specifically recite that the client identifier is include in the domain name field of the second request. Nevertheless Ebrahim does specifically recite that the caller context structure passed "must be well specified and their formats standardized so that many different name resolvers can interoperate properly" (Ebrahim Col 4, lines 15-21). Thus, one of ordinary skill in the art at the time of the invention would have been motivated to seek out analogous art which specifies a format for passing client ID's within a DNS request, such as the system of Shaikh. In the DNS server system disclosed by Shaikh a requesting client ID (client address) is embedded within the domain name field (DNS question section) of the DNS request (Shaikh pg 10, Section 5 – DNS Protocol Modifications). It would

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have been obvious to one of ordinary skill in the art at the time of the invention to utilize the protocol defined by Shaikh within Ebrahim's system since Shaikh protocol is well defined and therefore meets the requirements set forth by Ebrahim (Ebrahim Col 4, lines 15-21). Regarding the limitation of claims 16 and 19 requiring the use of a flag, the inclusion of a client ID within a request is itself a flag that the client ID is present.

Conclusion

13. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

14. This office action is made **NON-FINAL**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

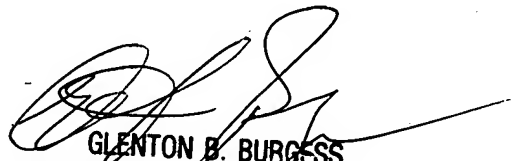
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



3/30/2005



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100